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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/683,531

01/16/2002

Robert S. Hamilton

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11/02/2004

OLIFF & BERRIDGE, PLC.  
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EXAMINER

NGUYEN, KEVIN M

ART UNIT

PAPER NUMBER

2674

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/683,531

Applicant(s)

HAMILTON, ROBERT S.

Examiner

Kevin M. Nguyen

Art Unit

2674

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
XIAO WU  
PRIMARY EXAMINER

Kevin M. Nguyen  
Patent Examiner  
Art Unit: 2674

Continuation of 5. does NOT place the application in condition for allowance because:

1. Applicant's arguments filed 8/31/2004 have been fully considered but they are not persuasive.
2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner does provide a motivation at end of each obvious statement for combining references.
3. In response to applicant's argument that claim 1 recites "a bistable display device usable as the label, the label including, an energy source..., and embedded optical data link for bidirectional communication with a recording/ play device, and a microcontroller that receives the operating signal generated by the energy source and a signal from the optical data link and provides a control signal to the bistable display device so that an image is generated on the label of the recording media, wherein the label is automatically updated by the recording/play device." This argument is not persuasive because Block et al teaches a display label for a diskette associated with a method, the display label comprising  
A display 410 (fig. 4A), display mechanism could be mounted on a clip-like device or on an adhesive-backed device (a display label as claimed, fig. 9, col. 11, lines 42-48).  
A battery 116 (an energy source as claimed, fig. 4A);  
Input interface 112 (fig. 4A) or other suitable data transfer interfaces are also contemplated such as other types of physical contacts or non-contact components, optical coupler including an infrared light emitting diode (IR-LED) transmitter (not shown) and a phototransistor (not shown) receiver (not shown) (col. 9, lines 44-49).  
The floppy disk drive 210 (a recording/play device as claimed, fig. 2A)  
Microcontroller 563 (fig. 5C) is detailed of a memory 414 (fig. 4A). Control unit 560 which includes a microcontroller 563 and an internal memory 564 storing the digital representation of the filenames to be displayed (col. 8, lines 9-12). The control unit 560 receives the directory data (e.g. data and addresses) in a serial manner, converts it to parallel and stores the information in the internal memory (col. 8, lines 19-22).  
A specially-designed floppy disk housing along with additional circuitry added to the personal computer which accesses the floppy disk (e.g., a modified floppy disk drive) to automatically update a programmable, dynamic display means operatively and conveniently located on the floppy disk housing such that it stores and can display a current list of selected filenames stored on the storage device (col. 3, lines 25-32).  
Albert teaches encapsulated electrophoretic display including bistability (a bistable display device usable as the label, col. 7, lines 24-27).  
Therefore, the modified teaching of Bloch's reference in view of the modified teaching of Albert's reference provide the "substantial evidence" and established a prima facie case to meet the claimed limitations of independent claim 1.  
For these reasons, the rejections based on Bloch and Albert have been maintained..